upa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.193 OF 2006

Capsultation Services Ltd.).. Petitioner

Versus

M/s.Construction Technique).. Respondents

Mr.Harshad H. Trivedi for the Petitioner.

Mr.Vishal Sheth i/b.Crawford Bayley & Co. for the Respondents.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 9TH AUGUST 2006

P.C.:

. In the present Petition, the Petitioner contends that the Arbitral Tribunal was biased against the Petitioner since the Arbitral Tribunal consisting of three members, of which two members were Civil Engineers, had prepared notes on which basis they made the Award. It is contended that these notes were not furnished to the parties for them to make any comments and, therefore, this procedure adopted smacks of bias. The judgments in the case of *Union of India* vs. *M/s.Banwari Lal & Sons (P) Ltd.*, **2004 V AD (S.C.) 287** and *Most.Etwari Devi and others* vs. *Most.Parvati Devi*, **2006 I AD (S.C.) 652** are cited in support of this submission. It is also submitted that the Petitioner

i.e. the Respondent in the arbitration proceedings has been saddled with payment of certain amounts under the Award. The Petitioner's contention that the work was defective has not been accepted by the learned Arbitrators by relying on these notes.

2. In my view, all these allegations cannot be made by the Petitioner under Section 34 of the Arbitration and Conciliation Act, 1996 as the reasons for setting aside the Arbitral Award circumscribed by that Section. The notes are part of the Award and are mere calculations on the basis of which the inferences have been drawn by the learned Arbitrators.

3. Hence, Petition dismissed.